IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION NO. 1965 OF 2007
IN
MISC. CIVIL APPLICATION (REVIEW) ST. NO. 20365 OF 2006
IN
WRIT PETITION NO. 4036 OF 2006

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
JUNE 15, 2007.

Heard Shri Malke, learned counsel for the petitioner – applicant.

The Civil Application is seeking condonation of delay of 61 days in filing MCA (Review) St. No. 20365 of 2006. The review sought is against the order dated 18.9.2006 passed by me. Because of delay, I have perused the review application and I have heard learned counsel for the applicant on the application for review on merit. The review is sought relying upon the judgment of the Hon'ble Apex Court in the case of State of Rajasthan vs. Khemraj, reported at AIR 2000 SC 1759, wherein the Hon'ble Apex Court has held that while considering such an application under Section 65 of Evidence Act,

the party filing such application should be given opportunity to file affidavit in support thereof.

I have perused the judgment. The Hon'ble Apex Court there noticed that said application under Section 65 of the Act was very vague and therefore the trial Court was held justified in rejecting it. However, in the interest of justice the Hon'ble Apex Court has permitted the appellant before it to file fresh application. Here, the trial Court has rejected the application not only because it was not supported by an affidavit but also has given other reasons. All these reasons are considered by me on 18.9.2006 while rejecting writ petition filed by present review applicant. Shri Malke, learned counsel states that RCS No.692 of 2003 is already disposed of and review applicant should be given liberty to challenge the order impugned in writ petition in Regular Civil Appeal. However, I find that this course is not open at this stage.

In the circumstances, no case for grant of review is being made out. Therefore, I am not inclined to issue notice on

application for condonation of delay. The same is, therefore, rejected.

JUDGE

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